AMENDATORY SECTION (Amending WSR 95-04-102, filed 2/1/95, effective 3/4/95)

WAC 173-360-120 Definitions. For the purposes of this chapter, the following definitions shall apply:

"Abandoned" means left unused indefinitely, without being substantially emptied or permanently altered structurally to prevent reuse.

"Aboveground release" means any release to the surface of the land or to surface water. This includes, but is not limited to, releases from the above-ground portion of an UST system and aboveground releases associated with overfills and transfer operations as the regulated substance moves to or from an UST system.

"Accidental release" means any sudden or nonsudden release of petroleum from an underground storage tank that results in a need for corrective action and/or compensation for bodily injury or property damage neither expected nor intended by the tank owner or operator.

"Ancillary equipment" means any devices including, but not limited to, such devices as piping, fittings, flanges, valves, and pumps used to distribute, meter, or control the flow of regulated substances to and from an UST.

"Belowground release" means any release to the subsurface of the land and/or to groundwater. This includes, but is not limited to, releases from the belowground portions of an underground storage tank system and belowground releases associated with overfills and transfer operations as the regulated substance moves to or from an underground storage tank.

"Beneath the surface of the ground" means beneath the ground surface or otherwise covered with earthen materials.

"Bodily injury" shall have the meaning given to this term by applicable state law; however, this term shall not include those liabilities which, consistent with standard insurance industry practices, are excluded from coverage in liability insurance policies for bodily injury.

"Cathodic protection" means a technique to prevent corrosion of a metal surface by making that surface the cathode of an electrochemical cell. For example, a tank system can be cathodically protected through the application of either galvanic anodes or impressed current.

"CERCLA" means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended.

"Certified UST supervisor" means a person certified by the International Fire Code Institute or another nationally recognized organization, as approved by the department. Washington registered professional engineers who are competent, by means of examination, experience, or education, to perform site assessments, are not

required to be certified for site assessment work.

"Change-in-service" means to change the substances stored in an UST system from regulated substances to unregulated substances.

"Class A operator" means an individual designated by an UST system owner or operator as having primary responsibility for the operation and maintenance of the system. The Class A operator typically manages resources and personnel, such as establishing work assignments, to achieve and maintain compliance with regulatory requirements.

"Class B operator" means an individual designated by an UST system owner or operator as having control of or responsibility for the day-to-day operation and maintenance of the system. The Class B operator typically performs or ensures the performance of operation and maintenance activities at an UST facility, maintains records of those activities, and reports those activities to the department.

"Class C operator" means an employee of an UST system owner or operator responsible for initially responding to alarms or other indications of emergencies caused by spills, overfills, leaks, or releases from an UST system. The Class C operator typically controls or monitors the dispensing or sale of regulated substances from the system.

"Closure" means to take an underground storage tank out of operation, either temporarily or permanently, in accordance with WAC 173-360-380 or 173-360-385. The term is synonymous with "decommissioning."

"Compatible" means the ability of two or more substances or materials to maintain their respective physical and chemical properties upon contact with one another such that the stored substance will not pass through the wall or lining of the tank and connected piping for the design life of the tank system under conditions likely to be encountered in the UST.

"Connected piping" means all underground piping including valves, elbows, joints, flanges, and flexible connectors attached to a tank system through which regulated substances flow. For the purpose of determining how much piping is connected to any individual UST system, the piping that joins two UST systems should be allocated equally between them.

"Consumptive use" with respect to heating oil means consumed on the premises.

"Controlling interest" means direct ownership of at least fifty percent of the voting stock of another entity.

"Corrosion expert" means a person who possesses a thorough knowledge of the physical sciences and the principles of engineering and mathematics acquired by a professional education and related practical experience, and is qualified to engage in the practice of corrosion control on buried or submerged metal piping systems and metal tanks. Such a person shall be accredited or certified as being qualified by the National Association of Corrosion Engineers or be a registered professional engineer who has certification or licensing that includes education and experience in corrosion control of buried or submerged metal piping systems and metal tanks.

"Decommissioning" means to take an underground storage tank out of operation, either temporarily or permanently, in accordance with WAC 173-360-380 or 173-360-385. The term is synonymous with "closure."

"Deferral" means a category of UST systems which are subject to certain, but not all, of the requirements of this chapter as specified in WAC 173-360-110(3).

"Delegated agency" means a state or local government agency which has been delegated responsibility by the department for administering any portion of an UST program.

"De minimis concentration" means either less than one inch of regulated substance, or less than a reportable quantity, as defined under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).

"Department" means the department of ecology.

"Dielectric material" means a material that does not conduct direct electrical current. Dielectric coatings are used to electrically isolate UST systems from the surrounding soils. Dielectric bushings are used to electrically isolate portions of the UST system (e.g., tank from piping).

"Director" means the director of the department of ecology.

"Dispenser" means a device used to dispense and meter regulated substances from an UST system.

"Dispenser system" means a dispenser and the aboveground equipment necessary to connect the dispenser to an UST system, including check valves, shear valves, unburied risers, flexible connectors, and other transitional components.

"Double-walled tanks" and "double-walled piping" mean tanks and piping consisting of an inner wall and an outer wall with an interstitial space capable of being monitored for leaks.

"Electrical equipment" means underground equipment that contains dielectric fluid that is necessary for the operation of equipment such as transformers and buried electrical cable.

"Emergency power generator" means an engine that uses fuel to produce auxiliary electrical or mechanical energy for use in emergencies.

"Emergency power generator tank" means a tank that stores fuel solely for use by an emergency power generator.

"Excavation zone" means the volume containing the UST system and backfill material bounded by the ground surface, walls, and floor of the pit and trenches into which the UST system is placed at the time of installation.

"Existing UST system" means an UST system used to contain an accumulation of regulated substances or for which installation had commenced on or before December 22, 1988. Installation is considered to have commenced if: The owner or operator had obtained all federal, state, and local approvals or permits necessary to begin physical construction of the site or installation of the tank system; and if

Either a continuous on-site physical construction or installation program had begun; or

The owner or operator had entered into contractual obligations--which cannot be ((~~cancelled~~)) canceled or modified

without substantial loss--for physical construction at the site or installation of the tank system to be completed within a reasonable time.

"Facility compliance tag" means a white-colored metal plate with a green-colored identification number issued by the department for display at an UST facility in a location clearly visible to the product deliverer and persons withdrawing waste oil. Except as otherwise provided in this chapter, it is unlawful for regulated substances to be delivered or deposited into an UST system, or withdrawn from a waste oil UST system, at an UST facility without a valid and properly displayed facility compliance tag.

"False alarm" means indicating that an UST system is leaking when in fact it is tight.

"Farm tank" is a tank located on a tract of land devoted to the production of crops or raising animals, including fish, and associated residences and improvements. A farm tank must be located on the farm property and used for farm purposes. "Farm" includes fish hatcheries, rangeland, and nurseries with growing operations. It does not include laboratories where animals are raised, land used to grow timber, pesticide aviation operations, retail stores or garden centers where nursery products are marketed but not grown, cemeteries, golf courses, or other facilities dedicated primarily to recreation or aesthetics, or other nonagricultural activities.

"Field-constructed tank" means an underground storage tank that is constructed in the field rather than factory built because of its large size.

"Financial reporting year" means the latest consecutive twelve-month period for which any of the following reports used to support a financial test is prepared: A 10-K report submitted to the SEC; an annual report of tangible net worth submitted to Dun and Bradstreet; or annual reports submitted to the Energy Information Administration or the Rural Electrification Administration. "Financial reporting year" may thus comprise a fiscal or a calendar year period.

"Firm" means any business, including but not limited to corporations, limited partnerships, and sole proprietorships, engaged in performing tank services.

"Flow-through process tank" is a tank that forms an integral part of a production process through which there is a steady, variable, recurring, or intermittent flow of materials during the operation of the process. Flow-through process tanks do not include tanks used for the storage of materials prior to their introduction into the production process or for the storage of finished products or by-products from the production process.

"Free product" refers to a regulated substance that is present as a nonaqueous phase liquid (e.g., liquid not dissolved in water).

"Gathering lines" means any pipeline, equipment, facility, or building used in the transportation of oil or gas during oil or gas production or gathering operations.

"Groundwater" means water in a saturated zone or stratum beneath the surface of land or below a surface water body.

"Hazardous substance UST system" means an underground storage

tank system that contains a hazardous substance defined in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (but not including any substance regulated as a hazardous waste under Subtitle C) or any mixture of such substances and petroleum, and which is not a petroleum UST system.

"Heating oil" means petroleum that is No. 1, No. 2, No. 4--light, No. 4--heavy, No. 5--light, No. 5--heavy, and No. 6 technical grades of fuel oil; other residual fuel oils (including Navy Special Fuel Oil and Bunker C); and other fuels when used as substitutes for one of these fuel oils. Heating oil is typically used in the operation of heating equipment, boilers, or furnaces.

"Hydraulic lift tank" means a tank holding hydraulic fluid for a closed-loop mechanical system that uses compressed air or hydraulic fluid to operate lifts, elevators, and other similar devices.

"Immiscible" means largely incapable of blending or mixing.

"Installation" means the activity of placing an underground storage tank system or any part thereof in the ground and preparing it to be placed in service.

"Interstitial space" means the space between the primary and secondary containment systems (e.g., the space between the inner and outer walls of a tank or pipe).

"Legal defense cost" is any expense that an owner or operator or provider of financial assurance incurs in defending against claims or actions brought: By the United States Environmental Protection Agency (EPA) or a state to require corrective action or to recover the costs of corrective action; by or on behalf of a third party for bodily injury or property damage caused by an accidental release; or by any person to enforce the terms of a financial assurance mechanism.

"Liquid trap" means sumps, well cellars, and other traps used in association with oil and gas production, gathering, and extraction operations (including gas production plants), for the purpose of collecting oil, water, and other liquids. These liquid traps may temporarily collect liquids for subsequent disposition or reinjection into a production or pipeline stream, or may collect and separate liquids from a gas stream.

"Maintenance" means the normal operational upkeep to prevent an underground storage tank system from releasing a regulated substance.

"Motor fuel" means petroleum or a petroleum-based substance that is motor gasoline, aviation gasoline, No. 1 or No. 2 diesel fuel, or any grade of gasohol, and is typically used in the operation of a motor engine.

"New UST system" means a tank system that will be used to contain an accumulation of regulated substances and for which installation commenced after December 22, 1988. (See also "existing tank system.")

"Noncommercial purposes" with respect to motor fuel means not for resale.

"Occurrence" means an accident, including continuous or repeated exposure to conditions, which results in a release from an

underground storage tank.

Note: This definition is intended to assist in the understanding of WAC 173-360-400 through 173-360-499 and is not intended either to limit the meaning of "occurrence" in a way that conflicts with standard insurance usage or to prevent the use of other standard insurance terms in place of "occurrence."

"On the premises where stored" with respect to heating oil means UST systems located on the same property where the stored heating oil is used.

"Operational life" refers to the period beginning when installation of the tank system has commenced until the time the tank system is properly closed under WAC 173-360-380 through 173-360-398.

"Operator" means any person in control of, or having responsibility for, the daily operation of the UST system.

"Overfill release" is a release that occurs when a tank is filled beyond its capacity, resulting in a discharge of the regulated substance to the environment.

"Owner" means: In the case of an UST system in use on November 8, 1984, or brought into use after that date, any person who owns an UST system used for storage, use, or dispensing of regulated substances; and in the case of any UST system in use before November 8, 1984, but no longer in use on that date, any person who owned such UST immediately before the discontinuation of its use. In the event that the owner of an UST system cannot be physically located, the owner shall be the person who owns the property where the UST system is located, except any lien holder and any agency of the state or unit of local government which acquired ownership or control involuntarily through bankruptcy, tax delinquency, abandonment, or circumstances in which the government involuntarily acquires title. This exclusion does not apply to an agency of the state or unit of local government which has caused or contributed to a release or threatened release of a regulated substance from the UST system.

"Owner or operator," means, for the purposes of WAC 173-360-400 through 173-360-499, when the owner or operator are separate parties, the party that is responsible for obtaining or has obtained financial assurances.

"Party" means a person or group concerned or having or taking part in any affair, matter, transaction, or proceeding.

"Permanently closed" means: (1) In the case of an UST system taken out of operation before December 22, 1988, the UST system was substantially emptied of regulated substances or permanently altered structurally to prevent reuse; (2) in the case of an UST system taken out of operation after December 21, 1988, and before the effective date of this chapter, the UST system was closed in accordance with 40 CFR 280; and (3) in the case of an UST system taken out of operation on or after the effective date of this chapter, the UST system was closed in accordance with WAC 173-360-385.

"Person" means an individual, trust, firm, joint stock company, federal agency, corporation, state, municipality, commission, political subdivision of a state, or any interstate body. "Person" also includes a consortium, a joint venture, a

commercial entity, and the United States government.

"Petroleum marketing facilities" include all facilities at which petroleum is produced or refined and all facilities from which petroleum is sold or transferred to other petroleum marketers or to the public.

"Petroleum marketing firms" are all firms owning petroleum marketing facilities. Firms owning other types of facilities with USTs as well as petroleum marketing facilities are considered to be petroleum marketing firms.

"Petroleum UST system" means an underground storage tank system that contains petroleum or a mixture of petroleum with de minimis quantities of other regulated substances. Such systems include those containing motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents, and used oils.

"Pipe" or "piping" means a hollow cylinder or tubular conduit that is constructed of nonearthen materials.

"Pipeline facilities (including gathering lines)" are new and existing pipe rights-of-way and any associated equipment, facilities, or buildings.

"Piping run" means all underground piping connecting an individual submersible pump or suction stub to associated dispenser systems or other end-use equipment.

"Product deliverer" means any person who delivers or deposits product into an UST system. This term includes major oil companies, jobbers, petroleum transportation companies, or other product delivery entities.

"Property damage" shall have the meaning given this term by applicable state law. This term shall not include those liabilities which, consistent with standard insurance industry practices, are excluded from coverage in liability insurance policies for property damage. However, such exclusions for property damage shall not include corrective action associated with releases from tanks which are covered by the policy.

"Provider of financial assurance" means an entity that provides financial assurance to an owner or operator of an underground storage tank through one of the mechanisms listed in WAC 173-360-413 through 173-360-436, including a guarantor, insurer, risk retention group, surety, issuer of a letter of credit, issuer of a state-required mechanism, or a state.

"Red tag" means a red-colored tag or device on the fill pipe of an UST system that clearly identifies the system as ineligible for product delivery or waste oil withdrawal. The tag or device is tamper resistant and is easily visible to the product deliverer and persons withdrawing waste oil. The tag or device clearly states and conveys, as applicable, that it is unlawful for regulated substances to be delivered or deposited into an UST system or withdrawn from a waste oil UST system.

"Regulated substance" means:

Any substance defined in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980 (but not including any substance regulated as a hazardous waste under Subtitle C of the Federal Solid Waste Disposal Act, or

a mixture of such hazardous waste and any other regulated substances); and

Petroleum, including crude oil or any fraction thereof that is liquid at standard conditions of temperature and pressure (sixty degrees Fahrenheit and 14.7 pounds per square inch absolute). The term "regulated substance" includes but is not limited to petroleum and petroleum-based substances comprised of a complex blend of hydrocarbons derived from crude oil through processes of separation, conversion, upgrading and finishing, such as motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents, and used oils. The term "regulated substance" does not include propane or asphalt or any other petroleum product which is not liquid at standard conditions of temperature and pressure.

"Release" means any spilling, leaking, emitting, discharging, escaping, leaching, or disposing from an UST system to groundwater, surface water or soils.

"Release detection" means determining whether a release of a regulated substance has occurred from the UST system into the environment or into the interstitial space between the UST system and its secondary barrier or secondary containment around it.

"Repair" means to restore a tank or UST system component that has caused a release of a regulated substance from the UST system.

"Residential tank" is a tank located on property used primarily for dwelling purposes; such properties do not include dormitories, convents, mobile parks, apartments, hotels and similar facilities, unless the tank is used by the owner solely for his or her own personal use, rather than to maintain the overall facility.

"Retrofitting" means the repair or upgrading of an existing underground storage tank system including, but not limited to, installation of splash, spill and overfill protection, installing or replacing monitoring systems, adding cathodic protective systems, tank repair, replacement of piping, valves, fill pipes or vents and installing tank liners.

"Secondary containment" means a release prevention system for tanks and piping consisting of an inner barrier and an outer barrier with an interstitial space capable of being monitored for leaks.

"Septic tank" is a water-tight covered receptacle designed and used to receive or process, through liquid separation or biological digestion, the sewage discharged from a building sewer. The effluent from such receptacle is distributed for disposal through the soil and settled solids and scum from the tank are pumped out periodically and hauled to a treatment facility.

"Site assessment" means investigating an UST site for the presence of a release at the time of closure or change-in-service.

"Site check" means investigating an UST site for the presence of a release when evidence indicates that a release may have occurred.

"((~~Stormwater~~)) Storm water or wastewater collection system" means piping, pumps, conduits, and any other equipment necessary to collect and transport the flow of surface water run-off resulting from precipitation, or domestic, commercial, or industrial

wastewater to and from retention areas or any areas where treatment is designated to occur. The collection of storm water and wastewater does not include treatment except where incidental to conveyance.

"Structural defect" means a hole or crack in the tank portion of the UST system, which has either caused a release from the system or is being repaired to prevent a release from the system.

"Substantial business relationship" means the extent of a business relationship necessary under applicable state law to make a guarantee contract issued incident to that relationship valid and enforceable. A guarantee contract is issued "incident to that relationship" if it arises from and depends on existing economic transactions between the guarantor and the owner or operator.

"Supervisor" means a person certified by the International Fire Code Institute, or other nationally recognized organization, operating independently or employed by a contractor, who is responsible for directing and overseeing the performance of tank services at a facility.

"Surface impoundment" is a natural topographic depression, excavation, or diked area formed primarily of earthen materials (although it may be lined with synthetic materials) that is not an injection well.

"Tangible net worth" means the tangible assets that remain after deducting liabilities; such assets do not include intangibles such as goodwill and rights to patents or royalties. For purposes of this definition, "assets" means all existing and all probable future economic benefits obtained or controlled by a particular entity as a result of past transactions.

"Tank" is a stationary device designed to contain an accumulation of regulated substances and constructed of nonearthen materials (e.g., concrete, steel, plastic) that provide structural support.

"Tank permit" means a tank tag, as required by RCW 90.76.020(4).

"Tank services" include underground storage tank installation, decommissioning, retrofitting, and testing.

"Temporarily closed UST system" means an UST system that has been removed from service and will be returned to service in the future.

"Termination" under WAC 173-360-476 and 173-360-480 means only those changes that could result in a gap in coverage as where the insured has not obtained substitute coverage or has obtained substitute coverage with a different retroactive date than the retroactive date of the original policy.

"Testing" means applying a method to determine the integrity of an underground storage tank.

"Tightness testing" means a procedure for testing the ability of a tank system to prevent an inadvertent release of any stored substance into the environment or, intrusion of groundwater into a tank system.

"Under-dispenser containment" or "UDC" means containment underneath a dispenser system designed to prevent leaks from the dispenser system from reaching soil or ground water.

"Underground area" means an underground room, such as a basement, cellar, shaft or vault, providing enough space for physical inspection of the exterior of the tank situated on or above the surface of the floor.

"Underground release" means any below ground release.

"Underground storage tank" or "UST" means any one or combination of tanks (including underground pipes connected thereto) that is used to contain an accumulation of regulated substances, and the volume of which (including the volume of underground pipes connected thereto) is ten percent or more beneath the surface of the ground. This term does not include any of the exempt UST systems specified in WAC 173-360-110(2), or any piping connected thereto.

"Upgrade" means the addition or retrofit of some systems such as cathodic protection, lining, or spill and overfill controls to improve the ability of an underground storage tank system to prevent the release of regulated substances.

"UST site" or "site" means the location at which underground storage tanks are in place or will be placed. An UST site encompasses all of the property within a contiguous ownership that is associated with the use of the tanks.

"UST system" or "tank system" means an underground storage tank, connected underground piping, underground ancillary equipment, and containment system, if any.

"Wastewater treatment tank" means a tank that is designed to receive and treat an influent wastewater through physical, chemical, or biological methods.

AMENDATORY SECTION (Amending WSR 90-24-017, filed 11/28/90, effective 12/29/90)

WAC 173-360-160 Enforcement. (1) **Authority.** The director may seek appropriate injunctive or other judicial relief by filing an action in Thurston County Superior Court or issuing such order as the director deems appropriate to:

(a) Enjoin any threatened or continuing violation of this chapter or chapter 90.76 RCW;

(b) Restrain immediately and effectively a person from engaging in unauthorized activity that results in a violation of any requirement of this chapter or chapter 90.76 RCW and is endangering or causing damage to public health or the environment;

(c) Require compliance with requests for information, access, testing, or monitoring under WAC 173-360-140 or RCW 90.76.060; ((~~or~~))

(d) Prohibit the delivery, deposit, or acceptance of a regulated substance to an UST system identified by the department to be ineligible for such delivery, deposit, or acceptance in accordance with WAC 173-360-165 and chapter 90.76 RCW; or

(e) Assess and recover civil penalties authorized under WAC

173-360-170 and RCW 90.76.080.

(2) **Procedures.** The department's enforcement procedures shall be consistent with and no less stringent than those required by 40 CFR 281.41 ((~~and amendments thereto~~)), as amended, and section 9012 of the Solid Waste Disposal Act (42 U.S.C. Sec. 6991k).

(3) **Appeals.** A person subject to an order issued under this chapter may appeal the order to the pollution control hearings board in accordance with RCW 43.21B.310.

NEW SECTION

WAC 173-360-165 Delivery prohibition. (1) **Authority.** If the department determines the owners and operators of an UST system are violating any requirement of this chapter or chapter 90.76 RCW, the department may prohibit the delivery, deposit, or acceptance of regulated substances to the system or the entire UST facility where the system is located.

(2) **Procedures.** The department's procedures for enforcing delivery prohibition shall be consistent with and no less stringent than those required by section 9012 of the Solid Waste Disposal Act (42 U.S.C. Sec. 6991k).

(3) **Identification.** The department may identify an UST system subject to delivery prohibition by either:

(a) Affixing a red tag to the fill pipe of the system; or

(b) Revoking the facility compliance tag of the UST facility where the system is located.

(4) **Prohibition.** Without the prior written authorization of the department, product deliverers may not deliver or deposit, and owners and operators may not accept the delivery or deposit of, regulated substances into an UST system if:

(a) A red tag is attached to the fill pipe of the system; or

(b) A valid facility compliance tag is not properly displayed at the UST facility where the system is located.

(5) **Withdrawal of waste oil.** Without the prior written authorization of the department, persons may not withdraw, and owners and operators may not allow the withdrawal of, regulated substances from a waste oil UST system subject to delivery prohibition.

(6) **Unauthorized removal of red tags.** No person may remove or alter a red tag without the prior written authorization of the department. The unauthorized removal or alteration of a red tag constitutes a violation of this chapter.

PART VII

OPERATOR TRAINING REQUIREMENTS

NEW SECTION

WAC 173-360-700 Purpose and applicability. (1) This part establishes a mandatory operator training program for three distinct classes of individuals who operate and maintain UST systems. The program is designed to prevent and mitigate releases from UST systems by ensuring that those individuals know how to properly operate and maintain those systems and respond to any spills, overfills, leaks, or releases from those systems.

(2) Owners and operators of UST systems shall continuously comply with the requirements of this part from their installation until their permanent closure or change-in-service, including during any period of temporary closure.

NEW SECTION

WAC 173-360-710 Designation of operators. UST system owners and operators shall designate individuals as Class A, Class B, and Class C operators in accordance with the requirements of this section.

(1) At least one Class A and one Class B operator must be designated for each UST system or group of systems at an UST facility.

(2) Each individual who meets the definition of Class C operator at an UST facility must be designated as a Class C operator. Class C operators must be employees of the UST system owner or operator.

(3) Separate individuals may be designated for each operator class or an individual may be designated to more than one operator class.

NEW SECTION

WAC 173-360-720 Timing of operator training. UST system owners and operators shall ensure that each Class A, Class B, and Class C operator is trained in accordance with the requirements in WAC 173-360-730 by the dates specified in this section.

(1) Class A, Class B, and Class C operators must initially be

designated and trained by December 31, 2012.

(2) Class A and Class B operators designated after December 31, 2012, must be trained within sixty days of assuming duties of the operator class.

(3) Class C operators designated after December 31, 2012, must be trained before assuming duties of the operator class.

NEW SECTION

WAC 173-360-730 Training requirements for operators. UST system owners and operators shall ensure that each Class A, Class B, and Class C operator is trained in accordance with the requirements of this section. Individuals designated for more than one operator class must successfully complete the training required for each operator class that he or she is designated.

(1) **Class A and Class B operators.** Each Class A and Class B operator must successfully complete a classroom, computer, or field-based training program or examination that:

(a) Is developed and administered by the department or an independent third-party approved by the department;

(b) Covers the following subject areas and associated requirements in this chapter. Training programs and examinations may be facility-specific:

(i) Administrative requirements, including:

(A) Licensing and fees;

(B) Facility compliance tags;

(C) Authority to accept product delivery;

(D) Financial responsibility; and

(E) Reporting and recordkeeping;

(ii) Certification and use of service providers;

(iii) Compliance inspections and enforcement;

(iv) Overview of UST systems and components;

(v) Product and equipment compatibility;

(vi) Installation and repair requirements;

(vii) Spill and overfill prevention;

(viii) Release detection;

(ix) Corrosion protection and internal lining;

(x) Secondary and under-dispenser containment;

(xi) Operation and maintenance requirements;

(xii) Release reporting and confirmation requirements;

(xiii) Overview of site assessment requirements;

(xiv) Overview of cleanup requirements for releases, including the applicability of chapter 173-340 WAC;

(xv) Temporary closure, permanent closure, and change-in-service requirements;

(xvi) Operator training requirements, including training of Class C operators; and

(xvii) Any other subject areas specified by the department;

and

(c) Includes an evaluation of operator knowledge, such as testing or practical examination, that reasonably determines whether the operator has the necessary knowledge and skills to meet the responsibilities of the class.

(2) **Class C operators.** Each Class C operator must successfully complete a classroom, computer, or field-based training program that:

(a) Is developed and administered by the department, a designated Class A or Class B operator at the UST facility, and/or an independent third party approved by the department;

(b) Provides facility-specific training and written instructions on how to respond to emergencies and alarms, including:

(i) Locating emergency response equipment;

(ii) Operating any emergency shut-off systems;

(iii) Identifying and responding to any alarms; and

(iv) Responding to and reporting any spills or releases; and

(c) Includes an evaluation of operator knowledge, such as testing or practical examination, that reasonably determines whether the operator has the necessary knowledge and skills to meet the responsibilities of the class.

(3) **Reciprocity for out-of-state training.** Class A and Class B operators previously designated in another state or at a tribal UST facility shall be deemed to meet the training requirements in subsection (1) of this section if:

(a) They successfully completed a training program or examination meeting the requirements of that state or 40 CFR Part 280, as applicable; and

(b) They possess the training records required under WAC 173-360-760(2) and the records identify the state where they were designated and trained.

(4) **Acceptance of prior in-state training.**

(a) Class A and Class B operators who successfully completed an applicable training program or examination approved by the department before (the effective date of this rule) and possess the training records required in WAC 173-360-760(2) shall be deemed to meet the training requirements in subsection (1) of this section.

(b) Class C operators who successfully completed a training program approved by the department or administered by a Class A or Class B operator before (the effective date of this rule) and possess the training records required in WAC 173-360-760(2) shall be deemed to meet the training requirements in subsection (2) of this section. However, Class C operators must still be retrained in accordance with WAC 173-360-740(2).

NEW SECTION

WAC 173-360-740 Retraining requirements for operators. UST system owners and operators shall ensure that Class A, Class B, and Class C operators are retrained, as applicable, in accordance with the requirements of this section.

(1) **Class A and Class B operators.**

(a) **Applicability.** If the department determines the owners and operators of an UST system are not in compliance with the requirements of this chapter, the department may require the Class A and Class B operators of that system to be retrained in accordance with (b) of this subsection. However, this provision does not apply to Class A and Class B operators who are retrained annually using a training program or examination meeting the requirements in WAC 173-360-730(1).

(b) **Requirements.** Within sixty days of receipt of the department's determination of noncompliance, Class A and Class B operators requiring retraining must successfully complete a training program or comparable examination meeting the requirements in WAC 173-360-730(1) and submit a copy of the certificate of completion to the department. At a minimum, the retraining must cover the areas determined to be out of compliance.

(2) **Class C operators.**

(a) **Frequency.** Class C operators must be retrained at least annually and whenever the emergency response procedures at an UST facility are changed. Class C operators must also be retrained before assuming the duties of a Class C operator at a different UST facility.

(b) **Requirements.** Class C operators requiring retraining must successfully complete a training program meeting the requirements in WAC 173-360-730(2).

NEW SECTION

WAC 173-360-745 Operation and maintenance plans. UST system owners and operators shall ensure that operation and maintenance plans are developed and maintained, as applicable, in accordance with the requirements of this section.

(1) **Applicability.** If the department determines the owners and operators of an UST system are not in compliance with the requirements of this chapter, the department may require the owners and operators to develop an operation and maintenance plan for each UST system at the UST facility where the noncompliant system is located. The department may require the development of such a plan in place of or in addition to any retraining of Class A or Class B operators required under WAC 173-360-740.

(2) **Development.** Operation and maintenance plans for UST systems must be developed and a copy submitted to the department

within sixty days of receipt of the department's determination of noncompliance.

(3) **Updates.** The operation and maintenance plan for an UST system must be updated within sixty days of any modification of the system that changes how the system must be operated and maintained under this chapter.

(4) **Content.** At a minimum, the operation and maintenance plan for an UST system must include the actions required under this chapter to operate and maintain the system, including:

(a) Release detection;

(b) Spill and overfill prevention;

(c) Corrosion protection, if applicable; and

(d) Internal lining, if applicable.

(5) **Recordkeeping.** Operation and maintenance plans for UST systems must be maintained and made available to the department in accordance with WAC 173-360-210(3). Plans must be maintained until UST systems are permanently closed or undergo a change-in-service.

NEW SECTION

WAC 173-360-750 Emergency response requirements. (1) **Presence of operators.** While an UST facility is manned, UST system owners and operators shall ensure at least one of the individuals manning the facility is a properly trained Class A, Class B, or Class C operator.

(2) **Signage.** At each UST facility, UST system owners and operators shall post and maintain signage providing emergency response information. The signage must:

(a) Be posted in prominent areas of the facility that are easily visible to individuals who dispense or deliver regulated substances;

(b) Identify the location of fire extinguishers and any emergency shut-off devices at the facility; and

(c) Provide instructions on what to do in case of an emergency at the facility. At a minimum, the instructions must include the following or equivalent wording:

(Name and address of facility)

IN CASE OF FIRE, SPILL OR RELEASE

(Insert if applicable: Use emergency shut off)

Call the fire department: (911 or local fire department telephone number)

Call the facility operator: (24-hour telephone number)

NEW SECTION

WAC 173-360-760 Documentation and recordkeeping. UST system owners and operators shall maintain records documenting all currently designated Class A, Class B, and Class C operators at an UST facility and the training received by those operators. The records must be maintained and made available in accordance with WAC 173-360-210(3).

(1) **Designated operators.** Records documenting Class A, Class B, and Class C operators at an UST facility must include the following information:

(a) The facility's name, address, and compliance tag number; and

(b) For each individual designated at the facility:

(i) The name of the individual;

(ii) The UST systems and operator classes to which the individual has been designated;

(iii) The date the individual assumed the duties of each operator class; and

(iv) The date the individual completed initial training and any required retraining for each operator class.

(2) **Training of designated operators.** Records documenting the initial training and any required retraining of Class A, Class B, and Class C operators must include a certificate of completion. Certificates must include the following information:

(a) The name of the trainee;

(b) The date the trainee completed the training;

(c) The operator class or classes covered by the training;

(d) The name of the company providing the training;

(e) For classroom and field-based training, the printed name and signature of the trainer or examiner; and

(f) For Class C operator training, the printed name and signature of a Class A or Class B operator.

PART VIII
SECONDARY AND UNDER-DISPENSER CONTAINMENT REQUIREMENTS

NEW SECTION

WAC 173-360-800 Purpose and applicability. (1) This part establishes requirements for secondary containment of tanks and piping and for under-dispenser containment.

(2) The applicability of the requirements in this part does not affect the applicability of any other requirements in this

chapter.

(3) In the event of any conflict between the provisions in this part and the other provisions in this chapter, the provisions in this part shall govern.

(4) UST system owners and operators shall ensure compliance with the applicable requirements in this part.

NEW SECTION

WAC 173-360-810 Secondary containment of tanks. (1) **Applicability.** Tanks installed or replaced after July 1, 2007, must be secondarily contained and monitored for releases in accordance with the requirements in this section.

(2) **Secondary containment.** In addition to meeting the requirements in WAC 173-360-305(1), tanks must meet the secondary containment requirements in this subsection.

(a) **Performance standards.** Tanks must be double-walled. Double-walled tanks must be designed, constructed, and installed to:

(i) Contain any regulated substances leaking from the primary space (through the inner wall) within the interstitial space until they are detected and removed;

(ii) Prevent the release of regulated substances into the environment throughout the operational life of the UST system; and

(iii) Allow for interstitial monitoring.

(b) **Codes of practice.** Double-walled tanks must be designed and constructed in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory. The following codes of practice may be used to meet this requirement:

(i) Underwriters Laboratories, Standard 58, "Standard for Safety for Steel Underground Tanks for Flammable and Combustible Liquids";

(ii) Underwriters Laboratories, Standard 1316, "Glass-Fiber-Reinforced Plastic Underground Storage Tanks for Petroleum Products, Alcohols, and Alcohol-Gasoline Mixtures";

(iii) Underwriters Laboratories, Standard 1746, "Standard for External Corrosion Protection Systems for Steel Underground Storage Tanks";

(iv) Steel Tank Institute, Standard F841, "Standard for Dual Wall Underground Steel Storage Tanks"; or

(v) Steel Tank Institute, Specification F922, "Specification for Permatank®."

(3) **Release detection.** Double-walled tanks must be monitored interstitially for releases at least every thirty days in accordance with WAC 173-360-345 (6)(h)(i). Methods that continuously monitor the interstitial space using a vacuum, pressure, or a liquid must be able to detect a breach in both the

inner and outer walls.

NEW SECTION

WAC 173-360-820 Secondary containment of piping. (1) **Applicability.** Piping installed or replaced after July 1, 2007, routinely containing regulated substances and in contact with the ground must be secondarily contained and monitored for releases in accordance with the requirements in this section. However, the requirements in this section do not apply to:

(a) Suction piping meeting the standards in WAC 173-360-350 (2)(b)(i) through (v); or

(b) Piping replacing less than fifty percent of a single-walled piping run.

(2) **Replacement of piping.** Unless otherwise approved or directed by the department, if fifty percent or more of a single-walled piping run is replaced after (the effective date of this rule), then the entire piping run must be replaced.

(3) **Secondary containment.** In addition to meeting the requirements in WAC 173-360-305(2), piping must meet the secondary containment requirements in this subsection.

(a) **Performance standards.** Piping must be double-walled. Containment sumps may also be used as part of the secondary containment and interstitial monitoring system for piping.

(i) **Piping.** Double-walled piping must be designed, constructed, and installed to:

(A) Contain any regulated substances leaking from the primary space (through the inner wall) within the piping's interstitial space or a containment sump until they are detected and removed;

(B) Prevent the release of regulated substances into the environment throughout the operational life of the UST system; and

(C) Allow for interstitial monitoring within either the piping's interstitial space or a containment sump.

(ii) **Containment sumps.** Containment sumps used as part of the secondary containment and interstitial monitoring system for piping must be designed, constructed, and installed to:

(A) Be liquid-tight on its sides, bottom, and at any penetrations;

(B) Allow for visual inspection and access to the components in the sump; and

(C) Allow for interstitial monitoring of the piping. The piping's interstitial space must be exposed within the sump. Sensors must be placed within the sump where they are able to detect any leak of regulated substances.

(b) **Codes of practice.** Double-walled piping must be designed and constructed in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory. The following codes of practice may be used to meet

this requirement:

(i) Underwriters Laboratories, Standard 971, "Standard for Non-metallic Underground Piping for Flammable Liquids"; or

(ii) Underwriters Laboratories, Standard 971A, "Outline of Investigation for Metallic Underground Fuel Pipe."

(4) **Release detection.** Double-walled piping must be monitored for releases using the methods specified in this subsection.

(a) Pressurized piping must be monitored interstitially for releases at least every thirty days in accordance with WAC 173-360-345 (6)(h)(i) and be equipped with an automatic line leak detector in accordance with WAC 173-360-350 (3)(a).

(b) Suction piping must be monitored interstitially for releases at least every thirty days in accordance with WAC 173-360-345 (6)(h)(i).

(c) Methods that continuously monitor the interstitial space using a vacuum, pressure, or a liquid must be able to detect a breach in both the inner and outer walls.

NEW SECTION

WAC 173-360-830 Under-dispenser containment. (1) **Applicability.** UST systems must be equipped with under-dispenser containment meeting the requirements of this section under:

(a) Any dispenser system installed or replaced after July 1, 2007;

(b) Any dispenser replaced after (the effective date of this rule); or

(c) Any dispenser system connected to underground piping installed or replaced after (the effective date of this rule).

(2) **Performance standards.** Under-dispenser containment must be designed, constructed, and installed to:

(a) Be liquid-tight on its sides, bottom, and at any penetrations; and

(b) Allow for visual inspection and access to the components in the containment system.

(3) **Installation and reporting.** Installation of under-dispenser containment must be:

(a) Performed by an UST supervisor certified to install UST systems under Part 6 of this chapter;

(b) Performed in accordance with the manufacturer's instructions; and

(c) Certified and reported in accordance with WAC 173-360-630 (2)(a).